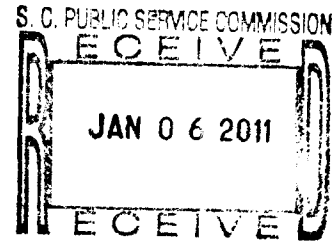




2011-18-C

December 28, 2010



Ms. Jocelyn Boyd, Chief Clerk
Public Service Commission of South Carolina
101 Executive Center Dr. Suite 100
Columbia, SC 29210

RE: Wireless Interconnection Agreement

Dear Ms. Boyd:

Please find enclosed, the Wireless Interconnection Agreement negotiated by and between Bluffton Telephone Company, Inc. and Cricket Communications, Inc., in accordance with Section 252(e) of the Telecommunications Act, and for the Commission's review and approval. Both parties believe this agreement complies with the Telecommunications Act of 1996 and seek approval under the same.

We will notify the South Carolina Office of Regulatory Staff by copy of this letter and the enclosed.

Please feel free to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Judy".

Trey Judy
Director – Regulatory & Carrier Relations
843-686-1210

**WIRELESS INTERCONNECTION AND COMPENSATION
AGREEMENT**

BETWEEN

BLUFFTON TELEPHONE CO., INC.

AND

Cricket Communications, Inc.

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I. Article I

1. INTRODUCTION

This Interconnection and Compensation Agreement ("Agreement") is effective as of the 2nd day of August, 2010 (the "Effective Date"), by and between Bluffton Telephone Co., Inc. ("Bluffton") with offices at 856 William Hilton Parkway, Hilton Head Island, South Carolina 29928 and Cricket Communications, Inc. ("Cricket"). Cricket Communications, Inc. is a Delaware Corporation, with offices at 5887 Copley Drive, , San Diego, CA 92111.

2. RECITALS

WHEREAS, Bluffton is an incumbent Local Exchange Carrier in the State of South Carolina;

WHEREAS, Cricket is a Commercial Mobile Radio Service provider of two-way mobile communications services and services incidental thereto operating within the state of South Carolina;

WHEREAS, Bluffton and Cricket exchange calls between their networks and wish to establish Interconnection and Compensation arrangements for exchanging traffic as specified below;

WHEREAS, the Parties are entering into this Agreement pursuant to Section 251(b)(5) of the Communications Act of 1934, as amended by inter alia the Telecommunications Act of 1996.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bluffton and Cricket hereby agree as follows:

II. Article II

1. DEFINITIONS

Special meanings are given to common words in the telecommunications industry, and coined words and acronyms are common in the custom and usage in the industry. Words used in this contract are to be understood according to the custom and usage of the telecommunications industry, as an exception to the general rule of contract interpretation that words are to be understood in their ordinary and popular sense. In addition to this rule of interpretation, the following terms used in this Agreement shall have the meanings as specified below:

1.1 "Act" means the Communications Act of 1934, as amended.

- 1.2 "As Defined in the Act", means as specifically defined by the Act, as may be interpreted from time to time by the FCC, Commission, South Carolina state courts and federal courts.
- 1.3 "As Described in the Act" means as described in or required by the Act, as may be interpreted from time to time by the FCC, Commission, South Carolina state courts and federal courts.
- 1.4 "Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.
- 1.5 "Central Office Switch" means, in the context of a LEC network, a switch used to provide Telecommunications Services, including, but not limited to:
- (a) "End Office Switch" is a switch in which the subscriber station loops are terminated for connection to trunks. The subscriber receives terminating, switching, signaling, transmission, and related functions for a defined geographic area by means of an end office switch.
 - (b) "Remote End Office Switch" is a switch in which the subscriber station loops are terminated. The control equipment providing terminating, switching, signaling, transmission, and related functions would reside in a host office. Local switching capabilities may be resident in a remote end office switch.
 - (c) "Host Office Switch" is a switch with centralized control over the functions of one or more remote end office switches. A host office switch can serve as an end office as well as providing services to other remote end offices requiring terminating, signaling, transmission, and related functions including local switching.
 - (d) "Tandem Office Switch" is a switching system that establishes trunk-to-trunk connections. Local tandems switch calls from one end office to another within the same geographic area, and access tandems switch traffic from host or end offices to and from an interexchange carrier. A tandem office switch can provide host office or end office switching functions as well as the tandem functions.
- A Central Office Switch may also be employed as a combination End Office/Tandem Office Switch.
- 1.6 "Commercial Mobile Radio Services" or "CMRS" means Commercial Mobile Radio Services as defined in 47 C.F.R. Part 20.

- 1.7 "Commission" means the Public Service Commission of South Carolina.
- 1.8 "Effective Date" means the date first above written.
- 1.9 "FCC" means the Federal Communications Commission.
- 1.10 "Interconnection" for purposes of this Agreement is the linking of Bluffton and Cricket networks for the exchange of telecommunications traffic described in this Agreement.
- 1.11 "Interexchange Carrier" or "IXC" means a carrier that provides or carries, directly or indirectly, InterLATA Service or IntraLATA Toll Traffic; provided however that a CMRS provider is not considered an IXC.
- 1.12 "InterLATA Service" means landline originated telecommunications between a point located in a local access and transport area and a point located outside such area.
- 1.13 "IntraLATA Toll Traffic" means those landline originated intraLATA station calls that are not defined as Local Telecommunications Traffic in this Agreement.
- 1.14 "Local Access and Transport Area" or "LATA" means a contiguous geographic area:
- (A) Established before February 8, 1996, by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or
 - (B) Established or modified by a Bell operating company after February 8, 1996, and approved by the Commission. 47 U.S.C. §153(25).
- 1.15 "Local Service Area" means, for Cricket, Major Trading Area Number 11 (Atlanta) and for Bluffton, its local calling area contained in Bluffton's then current General Subscriber Service Tariff.
- 1.16 "Local Telecommunications Traffic" is defined for purposes of compensation under this Agreement as telecommunications traffic that (a) originates by a customer or roamer of one Party on that Party's network, (b) terminates within the same MTA to a customer or roamer of the other Party on the other Party's network, and (c) may be handled pursuant to an agreement between the originating Party and a carrier which performs only a transiting function for the originating Party in lieu of a direct connection between the Parties, provided that the customer of Cricket is a two-way wireless CMRS customer. For purposes of determining whether traffic originates or terminates within the same MTA, and

therefore whether the traffic is local under this Agreement, the originating and terminating point for Bluffton shall be the end office serving the calling or called party, and for Cricket shall be the originating or terminating cell site location which services the calling or called party at the beginning of the call.

- 1.17 "Local Exchange Carrier" or "LEC" means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332(c) of the Act, except to the extent that the Federal Communications Commission finds that such service should be included in the definition of such term.
- 1.18 "Major Trading Area" or "MTA" means Major Trading Area as defined by the FCC.
- 1.19 "Mobile Service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the FCC proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding. 47 U.S.C. §153(27).
- 1.20 "Mobile Station" means a radio-communication station capable of being moved and which ordinarily does move. 47 U.S.C. §153(28).
- 1.21 "MSC" or "Mobile Switching Center" – A switch which is used to connect and switch trunk circuits within the wireless network and with the public switched network for CMRS traffic by a CMRS provider.
- 1.22 "Non-Local Traffic" – All traffic which is not Local Telecommunications Traffic, as defined in Section 1.16 hereof is Non-Local Traffic and will not be subject to Reciprocal Compensation.
- 1.23 "NPA" or the "Number Plan Area" also referred to as an "Area Code" refers to the three-digit code which precedes the NXX in a dialing sequence and identifies the general calling area within the North American Numbering Plan scope to which a call is routed to (i.e., NPA/NXX-XXXX).

- 1.24 "NXX" means the three-digit code, which appears as the first three digits of a seven-digit telephone number within a valid NPA or Area Code.
- 1.25 "Party" means either Bluffton or Cricket, and "Parties" means Bluffton and Cricket.
- 1.26 "Point of Interconnection" or "POI" means that technically feasible point of demarcation where the exchange of Local Telecommunications Traffic between two carriers takes place.
- 1.27 "Rate Center" means the specific geographic point and corresponding geographic area that is associated with one or more NPA-NXX codes that have been assigned to an incumbent LEC for its provision of telecommunications services.
- 1.28 "Reciprocal Compensation" means an arrangement between two carriers in which each receives a symmetrical compensation rate from the other carrier for the transport and termination on each carrier's network of Local Telecommunications Traffic, as defined in Section 1.16 above, that originates on the network facilities of the other carrier.
- 1.29 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.
- 1.30 "Telecommunications Carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 U.S.C. Section 226(a)(2)).
- 1.31 "Termination" means the switching of Local Telecommunications Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.
- 1.32 "Transit traffic" is traffic that originates from one provider's network, "transits" one or more other provider's network substantially unchanged, and terminates to yet another provider's network.
- 1.33 "Transport" means the transmission and any necessary tandem switching of Local Telecommunications Traffic subject to Section 251(b)(5) of the Act from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC .
- 1.34 "Type 1 Service" often referred to as a line-side trunk connection, is a service that involves interconnection to a telephone company end office. A type 1 Service is

offered in connection with the provision of telephone numbers hosted by a Bluffton switch.

- 1.35 "Type 2 Service" often referred to as a trunk side connection, is a service that involves interconnection to a telephone company end office (Type 2-B) or tandem (Type 2-A).

2.0 INTERPRETATION AND CONSTRUCTION

All references to Sections, Exhibits and Schedules shall be deemed to be references to Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. The headings of the Sections and the terms are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of this Agreement. Unless the context shall otherwise require, any reference to any agreement, other instrument or other third party offering, guide or practice, statute, regulation, rule or tariff is for convenience of reference only and is not intended to be a part of or to affect the meaning of a rule or tariff as amended and supplemented from time-to-time (and, in the case of a statute, regulation, rule or tariff, to any successor provision).

3.0 SCOPE

This Agreement is intended, inter alia, to describe and enable specific Interconnection and Reciprocal Compensation arrangements between the Parties. This Agreement does not obligate either Party to provide arrangements not specifically provided for herein.

This Agreement relates to exchange of traffic between Bluffton and Cricket. Bluffton's NXXs are listed in the LERG under operating Company Number ("OCN") 0512. Cricket represents that it is a CMRS provider of telecommunications service to subscribers in the MTA #11 (Atlanta). Cricket NXXs are listed in the LERG under OCN 6398.

This Agreement is limited to traffic of Bluffton end user customers for which Bluffton has tariff authority to carry. This Agreement is limited to traffic of Cricket end user customers to which Cricket provides telecommunications services on a two-way wireless, mobile basis (i.e. excluding fixed wireless service).

4.0 SERVICE AGREEMENT

Description of Arrangements. This Agreement provides for the following interconnection and arrangements between the networks of Bluffton and Cricket. Additional arrangements that may be agreed to in the future will be delineated in Attachment A to this Agreement. Type 2A interconnection and arrangements are based

on existing rate center designation for Cricket's NPA/NXX(s), rate centered at Bluffton's Hilton Head exchange, as listed in the LERG. Routing of traffic shall be as described in this section, except that, alternatives may be employed in the event of emergency or temporary equipment failure.

- 4.1 Type 2A Interconnection at Pritchardville:** A two-way trunk group is provided and provisioned between Bluffton's Pritchardville tandem switch (PTVLSCXA01T) and Cricket's point of presence in the Pritchardville, with the POI designated at Bluffton's Pritchardville tandem switch.. This trunk group is provisioned in connection with Cricket's NPA/NXX(s) rate centered at the Hilton Head exchange. Applicable tariff charges for establishing and provisioning these trunk groups are billed by Bluffton to Cricket, in accordance with Section 5.4.6, below. The Type 2A service involves the Bluffton landline homing arrangement of Cricket's NPA/NXX(s) with the rate center designation of Hilton Head exchange hosted by Cricket, as listed in the LERG.

A. Landline to Wireless:

Local Service Area calls from Bluffton customers as defined by Bluffton tariffs on file with the SC PSC (i.e., exchanges of Hilton Head, Hardeeville, Ridgeland, Pooler, Tybee, and Bluffton) to Cricket customers served by the NPA/NXX(s) rate centered within Bluffton's flat rated local calling area shall be routed from Bluffton's Pritchardville tandem switch to Cricket via the two-way direct trunk group. All other landline to wireless calls shall be routed in accordance with the Telcordia's Traffic Routing Administration instructions.

B. Wireless to Landline:

Cricket's MTSO serving the Bluffton area is located in Charlotte, North Carolina and serves the MTA #6 also. Calls originated on Cricket's network within MTA #11 (Atlanta) and MTA #6 (Charlotte-Greensboro-Greenville-Raleigh) to Bluffton's customers shall be routed from Cricket's network via the two-way direct trunk group to the Bluffton's Pritchardville tandem switch for termination by Bluffton to its customers, as appropriate. All other wireless to landline calls shall be routed in accordance with Telcordia's Traffic Routing Administration instructions.

- 4.2 Indirect Traffic to Bluffton :** To the extent that Cricket and BellSouth, or Cricket and another LEC, have entered into or may enter into contractual arrangements for the delivery of Cricket traffic to Bluffton for termination to Bluffton's customers (i.e., traffic that is not covered elsewhere in this Agreement and Bluffton is not being compensated for by the transiting LEC), Bluffton will accept this traffic subject to the compensation arrangements as outlined in Section 5 below.

- 4.3 **Transit Traffic:** The Parties acknowledge and agree that this Agreement is intended to govern the exchange of traffic to and from the Parties' respective networks only. Traffic originated by a Party and delivered to the other Party for termination to the network of a non-party Telecommunications Carrier ("Non-Party Carrier") may be delivered to a Non-Party Carrier. If a Non-Party Carrier objects to the delivery of such traffic, then either Party to this Agreement may request direction from the Commission, FCC, South Carolina state courts or federal courts. The transiting Party will continue to perform transiting functions for the other Party pending ruling from the Commission, FCC, South Carolina state courts or federal courts. The Party performing such transiting function will bill the other Party the transiting charge, as specified in Section 5 below. In order for Non-Party Carrier to bill the other Party for charges it is obligated to pay the Non-Party Carrier, the Party performing the transiting function must provide total minutes of transit traffic terminating to the Non-Party Carrier. Cricket shall not perform a transiting function pursuant to this Agreement.

5.0 **COMPENSATION**

5.1 **Traffic Subject to Reciprocal Compensation.**

Reciprocal Compensation is applicable for Transport and Termination of Local Telecommunications Traffic as defined in Section 1.16 and is related to the exchange of traffic described in Section 4.1, 4.2, and in Attachment A, as applicable. For the purposes of billing compensation for Local Telecommunications Traffic, billed minutes will be based upon actual usage recorded, with the exception of traffic described in Section 4.2, where records/reports provided by the transiting carrier shall be the basis for billing. Measured usage begins when the terminating recording switch receives answer supervision from the called end-user and ends when the terminating recording switch receives or sends disconnect (release message) supervision, whichever occurs first. The measure usage is aggregated and rounded to a whole minute.

The rate for Reciprocal Compensation shall be \$ 0.0195 per minute.

5.2 **Traffic Subject to Access Compensation.**

Parties agree that, where traffic rated and recorded as Local Telecommunications Traffic actually originates or terminates in different MTAs, such traffic shall qualify as Non-Local traffic, subject to access compensation.

Access Compensation is applicable to all Non-Local Traffic exchanged between Bluffton and Cricket, as described in Section 4 and Attachment A, as applicable. This does not include Transit Traffic. Cricket shall compensate Bluffton at Bluffton's applicable access tariff rates for all such non-Local Traffic.

5.3 Traffic Subject to Transit Compensation.

Transit Compensation is applicable to the traffic originated on Cricket's network and routed to Bluffton over the two-way direct trunk group for delivery to a Non-Party telecommunications carrier that subtends Bluffton's tandem, as described in Section 4.3 above.

The rate for Transiting Compensation shall be \$ 0.0045 per minute.

5.4 Calculation of Payments and Billing.

- 5.4.1 Bluffton shall compensate Cricket for Local Telecommunications Traffic that is delivered by Bluffton to Cricket over the two-way direct trunk groups, as prescribed and at the rate provided in Section 5.1, above. Cricket will compensate Bluffton for Local Telecommunications Traffic delivered to Bluffton for termination to its customers, as prescribed and at the rate provided in Section 5.1, for Non-Local Traffic exchanged between Cricket & Bluffton, as prescribed and at the rates provided in Section 5.2, and for Transit traffic as prescribed and at the rate provided in Section 5.3, above.
- 5.4.2 Cricket shall prepare a monthly billing statement to Bluffton, reflecting the calculation of Reciprocal Compensation due Cricket. Bluffton shall prepare a monthly billing statement to Cricket, which will separately reflect the calculation of Reciprocal Compensation, Access Compensation, Transit Compensation and total compensation due Bluffton. To the extent Cricket does not have the capability to record and measure landline to wireless Local Telecommunications Traffic and Bluffton does not provide Cricket with actual measurement then Cricket will bill Bluffton based on the Traffic Factor referenced in Section 5.4.6.
- 5.4.3 Recognizing that Bluffton has no way of measuring the Non-Local Traffic, in the event that Cricket does not track the usage information required to identify the Non-Local Traffic originated or terminated by Bluffton, both Parties agree to use a default factor of 0% as an estimate of Non-Local Traffic. The actual recorded usage shall be the basis for billing, when available and verifiable.
- 5.4.4 Each party may request to inspect, during normal business hours, the records which are the basis for any monthly bill issued by the other Party and to request

copies thereof provided that the requested records do not exceed 12 months in age from the date the monthly bill containing said record information was issued.

5.4.5 When the Parties jointly provide switched access services to an interexchange carrier ("IXC"), as a result of Cricket's NPA/NXX subtending Bluffton's access tandem, the Parties will establish industry standard Meet Point access arrangements to support the exchange of traffic with the IXC. Pursuant to the procedures described in Multiple Exchange Carrier Access Billing ("MECAB") document, MECAB-006, issue 6, February 1998, Bluffton shall provide to Cricket the Switched Access Detail Usage Data and the Switched Access Summary Usage Data to bill for jointly provided switched access service, such as switched access Feature Groups B and D. Bluffton will provide this data to Cricket at no charge. Such exchange of data shall commence on the effective date of this Agreement when Bluffton is capable of capturing this data.

5.4.6 Where Type 2A interconnection facilities are used for two-way traffic exchange between the Parties, the charges for such facilities, excluding cost of new construction, provided and billed for by Bluffton shall be reduced by an agreed upon percentage representing the estimated or actual percentage of traffic exchanged between the Parties over such facilities that originate on Bluffton's network by Bluffton's customers. This percentage is referred to as the Traffic Factor. The Parties agree to review these percentages on a periodic basis and, if warranted by the actual usage, revise the percentages appropriately.

- | | | |
|----|----------------------|-----|
| a) | Landline to Wireless | 39% |
| b) | Wireless to Landline | 61% |

6.0 NOTICE OF CHANGES

If a Party contemplates a change in its network, which it believes will materially affect the inter-operability of its network with the other Party, the Party making the change shall provide at least ninety (90) days advance written notice of such change to the other Party. However, when changes are necessitated by emergencies or other circumstances outside of the control of the Party, 2 hours written notice shall be required.

7.0 GENERAL RESPONSIBILITIES OF THE PARTIES

7.1 Each Party is individually responsible to provide facilities within its network which are necessary for routing, transporting and, consistent with Section 5, measuring and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in a mutually acceptable format, and to

terminate the traffic it receives in that mutually acceptable format to the proper address on its network. The Parties are each solely responsible for participation in and compliance with national network plans, including The National Network Security Plan and The Emergency Preparedness Plan. Neither Party shall use any service related to or use any of the services provided in this Agreement in any manner that prevents other persons from using their service or destroys the normal quality of service to other carriers or to either Party's customers, and subject to 60 days' written notice and a reasonable opportunity of the offending Party to cure any such violation, either Party may discontinue or refuse service if the other Party violates this provision.

- 7.2 All interconnection facilities will be at a DS1 level, multiple DS1 level, or DS3 level and will conform to industry standards. All two-way trunk facilities will be engineered to a P.01 grade of service. (The technical reference for DS1 facilities is Telcordia TR-NWT-000499. The technical reference for trunking facilities is Telcordia TR-NPL-000145.)
- 7.3 Each Party is solely responsible for the services it provides to its customers and to other Telecommunications Carriers.
- 7.4 Each Party is responsible for managing NXX codes assigned to it.
- 7.5 Each Party is responsible for obtaining Local Exchange Routing Guide ("LERG") listings of the Common Language Location Identifier ("CLLI") assigned to its switches.
- 7.6 Each Party shall use the LERG published by Telcordia or its successor for obtaining routing information and shall provide all required information to Telcordia for maintaining the LERG in a timely manner.
- 7.7 SS7 Out of Band Signaling (CCS/SS7) shall be the signaling of choice for Type 2 trunks, where it is technically feasible for both Parties. Use of a third party provider of SS7 trunks, for connecting Cricket to the Bluffton SS7 systems is permitted. Such connections shall meet generally accepted industry technical standards.

8.0 TERM AND TERMINATION

- 8.1 Subject to the provisions of Sections 13, the initial term of this Agreement shall be for 6 months ("Term") which shall commence on the Effective Date. This Agreement shall automatically renew for successive six-month periods, unless, not less than thirty (30) days prior to the end of the Term or any renewal term, either party notifies the other party of its intent to terminate this Agreement or re-

negotiate a new Agreement. In the event of such re-negotiation, this Agreement shall remain in effect until such time that a new agreement becomes effective.

8.2 The Parties agree that disputed and undisputed amounts due under this Agreement shall be handled as follows:

8.2.1 If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall, within thirty (30) days of its receipt of the invoice containing such disputed amount, give written notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due all undisputed amounts to the Billing Party. The Parties will work together in good faith to resolve issues relating to the disputed amounts. If the dispute is resolved such that payment of the disputed amount is required, whether for the original full amount or for the settlement amount, the Non-paying Party shall pay the full disputed or settlement amounts, as applicable, with interest at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under South Carolina's applicable law. In addition, the Billing Party may cease terminating traffic for the Non-paying Party after undisputed amounts not paid become more than 90 days past due, provided the Billing Party gives an additional 30 days written notice and opportunity to cure the default.

8.2.2 Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2%) per month or (ii) the highest rate of interest that may be charged under South Carolina's applicable law.

8.2.3 Undisputed amounts shall be paid within thirty (30) days of receipt of invoice from the Billing Party.

8.3 Upon termination or expiration of this Agreement in accordance with this Section:

- (a) Each Party shall comply immediately with its obligations as set forth in Section 8.2 above;
- (b) Each Party shall promptly pay all undisputed amounts (including any late payment charges) owed under this Agreement;
- (c) Each Party's indemnification obligations shall survive termination or expiration of this Agreement.

- 8.4 Either Party may terminate this Agreement in whole or in part in the event of a default of the other Party, provided, however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and the defaulting Party does not implement mutually acceptable steps to remedy such alleged default within thirty (30) days after receipt of written notice thereof.

9.0 CANCELLATION CHARGES

Except as provided herein, no cancellation charges shall apply.

10.0 NON-SEVERABILITY

Cricket recognizes that Bluffton must provision facilities in order to allow for exchange of traffic under this Agreement, and agrees that compensation for establishing and provisioning these facilities is non-severable from provisioning of such facilities.

11.0 INDEMNIFICATION

11.1 Each Party (the "Indemnifying Party") shall indemnify and hold harmless the other Party ("Indemnified Party") from and against loss, cost, claim liability, damage, and expense (including reasonable attorney's fees) to customers and other third parties for:

- (1) damage to tangible personal property or for personal injury proximately caused by the negligence or willful misconduct of the Indemnifying Party, its employees, agents or contractors;
- (2) claims for libel, slander, or infringement of copyright arising from the material transmitted over the Indemnified Party's facilities arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's customers; and
- (3) claims for infringement of patents arising from combining the Indemnified Party's facilities or services with, or the using of the Indemnified Party's services or facilities in connection with, facilities of the Indemnifying Party.

Neither Party shall accept terms of a settlement that involves or references the other Party in any matter without the other Party's approval.

Notwithstanding this indemnification provision or any other provision in the Agreement, neither Party, nor its parent, subsidiaries, affiliates, agents, servants, or employees, shall be liable to the other for Consequential Damages (as defined in Section 12.3).

11.2 The Indemnified Party will notify the Indemnifying Party promptly in writing of any claims, lawsuits, or demands by customers or other third parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this Section, and, if requested by the Indemnifying Party, will tender the defense of such claim, lawsuit or demand.

(1) In the event the Indemnifying Party does not promptly assume or diligently pursue the defense of the tendered action, then the Indemnified Party may proceed to defend or settle said action and the Indemnifying Party shall hold harmless the Indemnified Party from any loss, cost liability, damage and expense.

(2) In the event the Party otherwise entitled to indemnification from the other elects to decline such indemnification, then the Party making such an election may, at its own expense, assume defense and settlement of the claim, lawsuit or demand.

(3) The Parties will cooperate in every reasonable manner with the defense or settlement of any claim, demand, or lawsuit.

12.0 LIMITATION OF LIABILITY

12.1 No liability shall attach to either Party, its parents, subsidiaries, affiliates, agents, servants, employees, officers, directors, or partners for damages arising from errors, mistakes, omissions, interruptions, or delays in the course of establishing, furnishing, rearranging, moving, terminating, changing, or providing or failing to provide services or facilities (including the obtaining or furnishing of information with respect thereof or with respect to users of the services or facilities) in the absence of gross negligence or willful misconduct.

12.2 Except as otherwise provided in Section 11.0, no Party shall be liable to the other Party for any loss, defect or equipment failure caused by the conduct of the first Party, its agents, servants, contractors or others acting in aid or concert with that Party, except in the case of gross negligence or willful misconduct.

12.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages.

13.0 REGULATORY APPROVAL

The Parties understand and agree that this Agreement will be filed with the Commission. Each Party covenants and agrees to fully support approval of this Agreement by the Commission under Section 252(e) of the Act without modification. The Parties, however, reserve the right to seek regulatory relief or adjudicative relief and otherwise seek redress from each other regarding performance and implementation of this Agreement. In the event the Commission rejects this Agreement in whole or in part, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion(s). Further, this Agreement may be subject to change, modification, or cancellation if required by a final non-appealable order of a regulatory authority or court in the exercise of its lawful jurisdiction.

The Parties agree that their entrance into this Agreement is without prejudice to any positions they may have taken previously, or may take in future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements covered in this Agreement.

14.0 PENDING JUDICIAL APPEALS AND REGULATORY RECONSIDERATION

The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment to the Act, any effective legislative action or any effective, final and non-appealable regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to the Parties or in which the FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, Amended Rules), either Party may, to the extent permitted or required, by providing written notice to the other party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.

15.0 Reserved for Future Use

16.0 MISCELLANEOUS

16.1 Authorization

- 16.1.1** Bluffton is a corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to any necessary regulatory approval.
- 16.1.2** Cricket is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, subject to any necessary regulatory approval.
- 16.2** **Compliance.** Each Party shall comply with all applicable federal, state, and local laws, rules, and regulations applicable to its performance under this Agreement.
- 16.3** **Independent Contractors.** Neither this Agreement, nor any actions taken by Cricket or Bluffton in compliance with this Agreement, shall be deemed to create an agency or joint venture relationship between Cricket and Bluffton, or any relationship other than that of co-carriers. Neither this Agreement, nor any actions taken by Cricket or Bluffton in compliance with this Agreement, shall create a contractual, agency, or any other type of relationship or third party liability between Cricket and Bluffton and users or others.
- 16.4** **Force Majeure.** Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). If any Force Majeure condition occurs, the Party delayed or unable to perform shall give immediate notice to the other Party and shall take all reasonable steps to correct the force majeure condition. During the pendency of the Force Majeure, the duties of the Parties under this Agreement affected by the Force Majeure condition shall be abated and shall resume without liability thereafter.
- 16.5** **Confidentiality**
- 16.5.1** Any information such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer programs and other software and documentation of one Party (a Disclosing Party) that is furnished or made available or otherwise disclosed to the other Party or any of its employees, contractors, or agents (its "Representatives" and with a Party, a "Receiving Party") pursuant to this Agreement ("Proprietary Information") shall be deemed the property of the Disclosing Party.

Proprietary Information, if written, shall be clearly and conspicuously marked "Confidential" or "Proprietary" or other similar notice, and, if oral or visual, shall be confirmed in writing as confidential by the Disclosing Party to the Receiving Party within ten (10) days after disclosure. Unless Proprietary Information was previously known by the Receiving Party free of any obligation to keep it confidential, or has been or is subsequently made public by an act not attributable to the Receiving Party, or is explicitly agreed in writing not to be regarded as confidential, such information: (i) shall be held in confidence by each Receiving Party; (ii) shall be disclosed to only those persons who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used by those persons only for such purposes; and (iii) may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of such use in writing by the Parties. Notwithstanding the foregoing sentence, a Receiving Party shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law, upon advice of counsel, only in accordance with Section 16.5.2 of this Agreement.

16.5.2 If any Receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. The Disclosing Party may then seek appropriate protective relief from all or part of such requirement. The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to obtain.

16.5.3 In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party or destroy all Proprietary Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement and shall use all reasonable efforts, including instructing its employees and others who have had access to such information, to keep confidential and not to use any such information, unless such information is now, or is hereafter disclosed, through no act, omission or fault of such Party, in any manner making it available to the general public.

16.6 **Governing Law.** This Agreement shall be governed by the domestic laws of the State of South Carolina without reference to conflict of law provisions. Notwithstanding the foregoing, the Parties may seek resolution of disputes under this Agreement by the FCC, the Commission, or South Carolina state court or federal court, as appropriate.

- 16.7 **Taxes.** Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide such sale for resale tax exemption certificate will result in no exemption being available to the purchasing Party.
- 16.8 **Assignment.** This Agreement shall be binding upon the Parties and shall continue to be binding upon all such entities regardless of any subsequent change in their ownership. Each Party covenants that, if it sells or otherwise transfers to a third party, unless the Party which is not the subject of the sale or transfer reasonably determines that the legal structure of the transfer vitiates any such need, it will require as a condition of such transfer that the transferee agree to be bound by this Agreement with respect to services provided over the transferred facilities. Except as provided in this paragraph, neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party which consent will not be unreasonably withheld; provided that either Party may assign this Agreement to a corporate Affiliate or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.
- 16.9 **Non-Waiver.** Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.
- 16.10 **Notices.** Notices given by one Party to the other Party under this Agreement shall be in writing and shall be: (i) delivered personally; (ii) delivered by express delivery service; (iii) mailed, certified mail, return receipt requested; or (iv) delivered by telecopy to the following addresses of the Parties:

To: Cricket

Cricket Communications, Inc.

Bluffton

Bluffton Telephone Co., Inc.

5887 Copley Drive
San Diego, CA 92111

Attention: Director, Interconnect
Engineering (858) 882-6000

856 William Hilton Parkway
Hilton Head Island, S.C. 29928

Attn: General Counsel
Fax Number: (843) 686-0975

With a Copy to:
Cricket Communications, Inc.
5887 Copley Drive
San Diego, CA 92111

Attention: Procurement, Contract
Management

With a copy to:
Bluffton Telephone Co., Inc.
856 William Hilton Parkway
Hilton Head Island, S.C. 29928

Attn: Director – Regulatory & Carrier
Relations
Fax Number: (843) 686-0975

Or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of: (i) the date of actual receipt; (ii) the next business day when notice is sent via express mail or personal delivery; (iii) three (3) days after mailing in the case of certified U.S. mail; or (iv) on the date set forth on the confirmation in the case of telecopy.

16.11 Publicity and Use of Trademarks or Service Marks. Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

16.12 Joint Work Product. This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms. In the event of any ambiguities, no inferences shall be drawn against either Party.


- 16.13 No Third Party Beneficiaries; Disclaimer of Agency.** This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any third-party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a party as a legal representative or agent of the other Party; nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name of, or on behalf of the other Party, unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.
- 16.14 No License.** No license under patents, copyrights, or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party, or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.
- 16.15 Technology Upgrades.** Nothing in this Agreement shall limit either Parties' ability to upgrade its network through the incorporation of new equipment, new software or otherwise, provided it is to industry standards, and that the Party initiating the upgrade shall provide the other Party written notice at least ninety (90) days prior to the incorporation of any such upgrade in its network which will materially impact the other Party's service. Each Party shall be solely responsible for the cost and effort of accommodating such changes in its own network.


16.16 Entire Agreement. The terms contained in this Agreement and any Schedules, Exhibits, tariffs and other documents or instruments referred to herein are hereby incorporated into this Agreement by reference as if set forth fully herein, and constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by an officer of each Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the dates listed below.

Cricket Communications, Inc.

Bluffton Telephone Co., Inc.

By: 
Name: Sean Toplin
Title: Director - IC-BH
Date: 9-20-10

By: 
Name: Andrew Rein
Title: Vice President Sales & Marketing
Date: 8/20/10

ATTACHMENT A

Reserved For Future Use